

IN THE DISTRICT COURT OF UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
2005 DEC 21 4 28 29
NORTHERN DIVISION

DEBRA P. HAO
U.S. DISTRICT
CLERK

RODERICK COOPER #180136,
Plaintiff,

CIVIL ACTION NO:
2:05-CV-981-T

V

LOUIS BOYD, et. Al.,
Defendant.

MOTION FOR RECONSIDERATION

COMES NOW the plaintiff, Roderick Cooper, PRO-SE
AND through inmate assistance, AND moves this Honorable
Court to RECONSIDER its "ORDER" dated DECEMBER 6th,
2005. In which this Court overruled the Magistrate
Judge's RECOMMENDATION dated NOVEMBER 29th, 2005,
granting plaintiff's motion to dismiss, without prejudice
plaintiff's 42 U.S.C. § 1983 complaint, AS untimely filed.
AND shows CAUSE AS follows:

1. Fed.R.Civ.P., Rule 72(a) WAS SUPERSEDED by the Rules
set out in this District Court to plaintiff on this Court's
"ORDER" dated October 17th, 2005. (SEE plaintiff's exhibit
"A", highlighted AREAS)

2. Fed.R.Civ.P., Rule 72(a), is not firmly established

and regularly followed in this Circuit.

3. Plaintiff's 42 U.S.C. §1983 complaint was/is governed by Fed.R.Civ.P., Rule 15, and Rule 41 (a)(1) after receiving this Court's Rules of procedure, dated Oct. 17th, 2005. Thereby making plaintiff's motion to dismiss timely.

4. Plaintiff was not given a opportunity to oppose the Magistrate Judge's order dated October 17th, 2005 granting in forma pauperis, because on the next day, the Magistrate Judge proceeded to issue another order to the defendants without giving plaintiff an opportunity to either accept or reject its first order. (see Exhibit "B")

5. It is the policy/procedure of this Court to not only notify plaintiff or defendants of a action, but to also inform the parties that they may file objections to the recommendation(s). (see exhibit "C", highlighted area)

6. In the interest of Judicial Economics, on behalf of the defendants and this Honorable Court.

7. By the defendants not objecting to the Magistrate Judge's recommendation to dismiss plaintiff's §1983 complaint, defendants basically agreed or consented for dismissal.

BECAUSE OF THE AFOREMENTIONED, AND BRIEF IN support of, plaintiff prays that this Honorable Court will RECONSIDER its order dated December 6th, 2005, AND dismiss plaintiff's 42 U.S.C. § 1983 complaint without prejudice, AND without having to pay filing fees.

DONE this the 16th day of DECEMBER, 2005

Respectfully Submitted,
Roderick Cooper
RODERICK COOPER #180136

CERTIFICATE OF SERVICE

I hereby certify that I have served a true and correct copy of the foregoing; "Motion for Reconsideration", AND "MEMORANDUM brief in support of", via U.S. MAIL, postage prepaid AND properly addressed on this the 16 day of DECEMBER, 2005 as follows:

Office of the Attorney General
Attn: Jeffery H. Long
11 - South Union St
Montgomery, AL 36130 - 0152

Roderick Cooper